

## CITY COUNCIL CONFERENCE MINUTES

November 10, 2009

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in Conference in the Municipal Building Conference Room at 5:30 p.m. on the 10th day of November, 2009, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray and the Norman Public Library at 225 North Webster 48 hours prior to the beginning of the meeting.

PRESENT:

Councilmembers Butler, Cubberley, Dillingham, Ezzell, Griffith, Kovach, Quinn, Thompson, Mayor Rosenthal

ABSENT:

None

### DISCUSSION REGARDING AN INITIAL OKLAHOMA REGIONAL WATER UTILITY TRUST, THE LAKE THUNDERBIRD STUDY, AND RECLAIMED WATER OPTIONS.

Mr. Steve Lewis, City Manager, said over the last year or so, many Oklahoma metro area cities have collaborated for a feasibility study to transport water from southeast Oklahoma to the central Oklahoma metro area with the goal of providing a long term water supply source. He hoped tonight's report will help Council make a decision about whether or not Norman wants to participate in the project. He said Council will review basic information regarding a proposed water trust, which is a government structure for capital improvements and a financing vehicle.

Ms. Kathryn Walker, Assistant City Attorney, said in 2001, the Strategic Water Supply Plan suggested that additional water be brought into the area from southeastern Oklahoma as a long term water solution. In 2007, the Norman Utilities Authority (NUA) approved a resolution expressing the City's intent to participate in a regional water utility along with other area cities and these cities began working on a draft trust indenture to establish this utility. In 2008, the NUA approved funding for participation in the Southeast Raw Water Supply Infrastructure Study and in May 2009, Camp, Dresser, and McKee, Inc., (CDM) presented those study findings to Council at a Study Session.

Ms. Walker explained what a trust is and how it works. A trust is an entity that creates a fiduciary relationship in which Trustees hold the title to property and act as authorized in relation to the property for the benefit of the trust beneficiary. She said the participating cities are the "Trustors" and are also the "beneficiaries" of the trust. She said the trust provides an avenue by which the representatives from multiple cities and utilities can engage in the day to day activities associated with securing long term water supply from southeastern Oklahoma without putting the participating cities at risk for any debt, loss, or liability. The Oklahoma Public Trust Law, a state statute, is dedicated to trusts that exist for public benefit. Public trusts exist as legal entities separate and distinct from municipal beneficiary and will act on behalf and in furtherance of a public function, are created for the purpose of issuing debt and entering into financial obligations including the sale of real or personal property, and have the power of eminent domain. Basic requirements of a public trust include two-thirds approval of all participating governing bodies before issuing debt or entering into financial obligations in real or personal property; filing an annual report with each beneficiary; annual audits being conducted and filed with the State Auditor and each beneficiary; following requirements for competitive bidding for construction, labor, equipment, materials, or repairs if they exceed \$25,000; and complying with the Oklahoma Open Records Act and Open Meetings Act. Councilmember Kovach asked if each governing body needs to vote two-thirds and Ms. Walker said each city appoints a representative, which counts as one vote.

Ms. Walker said the trust agreement will create an Oklahoma Regional Water Utility Trust made up of metro-area cities desiring to participate in obtaining water from Sardis Lake and the purpose of the trust will be to acquire water storage rights in Sardis Lake and fund and construct infrastructure necessary to bring the water to the metro area. Mayor Rosenthal asked if there had been any discussion that the trust would go beyond the Sardis Lake Project and Ms. Walker said, at this time, discussion has been solely about Sardis Lake and bringing the water to the central Oklahoma area. She said each participating city will be represented by one trustee who will manage and control the affairs of the trust. The trustee will determine financing, investing, and contracting for services relative to the trust and Norman's trustee will be the Chairperson of the Utilities Authority or her designee.

Councilmember Ezzell asked how many cities have opted out of the trust and Ms. Walker said the City of Moore is considering being a customer of Oklahoma City for that water, but other cities are still deciding. She said Oklahoma City is working on acquiring water rights, which will determine the cost for each city. Councilmember Dillingham asked if Oklahoma City is exploring the costs of acquiring the rights or actually acquiring the rights. Ms. Walker said they were exploring the cost of acquiring the rights. Mayor Rosenthal was concerned Oklahoma would end up in a bidding war with Texas and Mr. Mitchell said a State law was passed that a permanent issue for water out of state must be legislatively approved by the State of Oklahoma.

Ms. Walker said all meetings of the utility trust will be open to the public unless they hold an executive session. She said a quorum is the number of trustees representing cities whose cumulative water storage rights total not less than two-thirds of the net water storage rights and a simple majority is required to approve most actions except for adoption or amendment of budget, approval of debt, issuance of bonds, and amending the trust indenture which would require two-thirds approval. Ms. Walker said each Trustor will contribute funds to buy water storage rights in Sardis Lake and will receive water rights in proportion to the amount of the contribution. She said the proportion will dictate each Trustor's responsibility for additional and annual contributions to cover operational, maintenance and other infrastructure costs. Councilmember Butler asked if the annual charges would be on the amount of water conveyed or stored and Mr. Ken Komiske, Director of Utilities, said the City will opt for a certain amount of storage rights even though it might not be needed for thirty years. Ms. Walker said beyond the initial contribution to buy the water rights, there will be costs for building the pipeline and installing the infrastructure that gets the water to central Oklahoma. She said contributions are also important in determining whether a quorum is present at a meeting of the Trustees.

Ms. Walker said additional issues may consist of a Code of Ethics for Trustees, annual adoption by Trustees of goals, timelines, etc., and annual adoption by Trustees of a Long Term Strategic Plan. She said negotiations for water rights are ongoing and once the price is identified, cities will determine their buy-in portion and the trust indenture will move forward for approval by participating cities. Mr. Lewis said Oklahoma City has gone through an RFP process to select a consultant for preliminary permitting work, which Mr. Komiske said an environmental assessment will be the first step to determine the environmental impact of the pipeline before it is submitted to the Oklahoma City Council.

Ms. Walker said the cities have been working on the trust indenture since March 2007, and Oklahoma City has been very open to suggestions from other cities and willing to work as a team, but they will be the large supplier no matter what other cities participate. She said Oklahoma City believes they have a better shot at getting Oklahoma Water Resource Board (OWRB) permits if all cities are working together and have been working to get more cities involved.

Mr. Komiske said Staff is looking at options for a long term water supply other than acquiring water from southeast Oklahoma and one of those options is how to use Norman's reservoir more effectively. He said Norman shares the reservoir with the Central Oklahoma Master Conservancy District (COMCD), Del City, and Midwest City. Mr. Chris Mattingly, Utilities Superintendent, explained that the Federal Bureau of Reclamation (BOR) built the lake and formed the COMCD with Norman having three members, Midwest City having three members, and Del City having one member. He said those members operate the lake with the assets in their name. He said the BOR still manages the lake and the COMCD reports to the BOR. He said the BOR regulates the lake up to a 1039 Conservation Pool Level which is when the lake is full and the water can be used for drinking, recreation, and all other uses. When the lake gets over 1039 Level, the Corps of Engineers (COE) steps in and contacts the COMCD to "flood" the extra water from the lake. Mr. Mattingly said the yearly firm yield is 15,600 acre feet. He defined "firm yield" as the average rainfall in the basin minus the annual evaporation minus annual usage minus seepage. He said the BOR developed a model for Lake Thunderbird using historic rainfall data and the Oklahoma Water Resources Board (OWRB) silt study, which shows the lake is collecting silt over the years; however, the original lake construction accounted for that. He said Norman was concerned that, over the years, the firm yield has dropped from 21,600 acre feet so the City began looking at other options for water such as purchasing emergency raw water from Oklahoma City to augment the lake and eventually augment with water from southeast Oklahoma's Sardis Lake. Councilmembers asked if the sedimentation had increased significantly over time and Mr. Mattingly replied that it was staying within the ranges predicted from the 1926 model created by BOR. Councilmember Kovach asked if the silt would have to be removed so the basin could hold more water and Mr. Mattingly said, if needed, the reservoir could be dredged or silt ponds installed to capture the silt before it enters the lake.

Councilmember Kovach asked if water from southeast Oklahoma is used, would bigger pipes be needed from the lake to the plant and Mr. Mattingly said yes, a current project is replacing a 30 inch line with a 48 inch line that will enable the City to pump 19 million gallons of water per day; however that is more than the COMCD allotted gallons per day. Mr. Komiske said, in conjunction, the City is constructing six new wells with ten more wells in the coming years to help acquire more water and stay within their allocation. Mayor Rosenthal asked if there has been discussion regarding a new allocation agreement and Mr. Lewis said there has been discussion regarding leasing a portion of the other city's allocation.

Mr. Mattingly said COMCD is requesting a consulting firm study all the National Environmental Policy Act (NEPA) laws to bring foreign water into the water body. He said this study would address where to discharge the water into the lake, treatability of the water, how it will affect wildlife, nuisance species such as snails, etc. He said the first goal is to get the 21,600 acre feet per year back in the lake. Due to constraint and the fact that State law currently prohibits water reuse, Mayor asked that the Planning and Community Development Committee discuss reclaimed water more extensively for further discussion at a later date.

Items submitted for the record

1. Memorandum dated November 4, 2009, from Kathryn L. Walker, Assistant City Attorney, through Jeff H. Bryant, City Attorney, to Norman Utilities Authority
2. Draft Oklahoma Regional Water Utility Trust Indenture as of September 29, 2009
3. PowerPoint presentation entitled, "Oklahoma Regional Water Utility Trust," City Council Conference dated November 10, 2009
4. PowerPoint presentation entitled, "Regional Raw Water Supply Study for Central Oklahoma

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DISCUSSION REGARDING ACCEPTANCE OF CERTAIN DATA AND MAPS CONTAINED  
IN THE STORM WATER MASTER PLAN AND ACCEPTING CERTAIN PRINCIPLES  
CONTAINED IN THE GREENWAY MASTER PLAN.

Due to time constraints, Council did not discuss this item.

The meeting adjourned at 6:26 p.m.

ATTEST:

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City Clerk

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Mayor